

REMARKS/ARGUMENTS

The rejections presented in the Office Action dated April 30, 2007 (hereinafter Office Action) have been considered. Reconsideration of the pending claims and allowance of the application in view of the present response is respectfully requested.

Applicant respectfully maintains the traversal of each of the prior art rejections (§§102(e) and 103(a)) based upon the teachings of U.S. Patent No. 6,772,205 to Lavian *et al.* (hereinafter “Lavian”) because Lavian does not teach or suggest each of the claimed limitations. For example, Lavian does not teach executing a proxy application in a terminal equipment where the proxy application provides an accessory software application with the services offered by the application interface of the terminal equipment, as claimed in the independent claims. Rather, the cited portions of Lavian merely teach that a separate proxy device is used to provide target device 112 (asserted as corresponding to the claimed terminal equipment) with a converted object-oriented application (apparently asserted as corresponding to the claimed proxy application). However, there is no teaching or suggestion that the converted object-oriented application provides network device 102 (asserted as corresponding to the claimed accessory), or any other element, with services provided by client application 226 (asserted as corresponding to the claimed application interface). Instead, the asserted alignment of Lavian teaches that the asserted accessory facilitates the provision of applications to the asserted terminal (target device 112) without the asserted terminal providing any services to the asserted accessory (network device 102). Thus, Lavian does not teach or suggest a proxy application providing an accessory software application with services offered by a terminal’s application interface or that the asserted accessory (network device 102) executes an accessory software application, as claimed.

Moreover, in paragraph (b) of the Response to Arguments, the reliance upon client user interface 114 appears to be misplaced. For example, Lavian does not teach that client node 114 executes an application (accessory software application or proxy application) such that it would correspond with either the claimed accessory or terminal equipment. As the identified target device 112 is the only device that executes the asserted proxy application (converted object-oriented application), target device 112 must be asserted as corresponding

to the claimed terminal equipment. However, none of the other elements discussed in paragraph (b) are provided with services offered by an application interface of the target device 112 such that they would correspond to the claimed accessory. The assertion that Lavian's proxies are associated with downloading applications to terminal devices fails to provide correspondence to providing an accessory application in an accessory with services offered by the application interface of a terminal. *See, e.g.*, paragraph [0031] of the instant Specification. The asserted teachings of Lavian appear to teach a one-way provision of applications to a target device that does not teach or suggest an accessory, as claimed. Without a presentation of correspondence to each of the claimed limitations, each of the prior art rejections are improper.

With particular respect to the §102(e) rejection, Applicant notes that to anticipate a claim the asserted reference must teach every element of the claim. "A claim is anticipated only if each and every element as set forth in the claim is found, either expressly or inherently described, in a single prior art reference." *Verdegaal Bros. v. Union Oil Co. of California*, 2 USPQ2d 1051, 1053 (Fed. Cir. 1987). The identical invention must be shown in as complete detail as is contained in the patent claim; *i.e.* every element of the claimed invention must be literally present, arranged as in the claim. *Richardson v. Suzuki Motor Co.*, 9 USPQ2d 1913, 1920 (Fed. Cir. 1989). Therefore, all claim elements, and their limitations, must be found in the prior art reference to maintain the rejection based on 35 U.S.C. §102. Applicant respectfully submits that Lavian does not teach every element of independent Claims 1, 17 and 26 in the requisite detail and therefore fails to anticipate Claims 1-6, 8-15, 17-24, 26-29 and 31-33.

With particular respect to independent Claims 34 and 35, Applicant notes that these claims are not included in any of the statements of rejection. MPEP §707.07(d) indicates that where a claim is refused the word "reject" must be used and the statutory basis for any ground of rejection should be designated by an express reference in the opening sentence of each ground of rejection. While it appears that the Examiner intended to reject Claims 34 and 35 upon the same basis of the rejection of Claims 1-6, 8-15, 17-24, 26-29 and 31-33, such a rejection would be improper for the reasons discussed above in connection with the

failure of Lavian to correspond to the claimed invention. If this was not the Examiner's intention, Applicant requests clarification, an opportunity to respond, and that any future rejections comply with MPEP §707.07(d).

In addition, dependent Claims 2-6, 8-15, 18-24, 25-29 and 31-33 depend from independent Claims 1, 17 and 26, respectively, and also stand rejected under 35 U.S.C. §102(e) as allegedly being anticipated by Lavian. While Applicant does not acquiesce with the particular rejection to these dependent claims, the rejection is also improper for the reasons discussed above in connection with independent Claims 1, 17 and 26. These dependent claims include all of the limitations of independent Claims 1, 17 and 26 and any intervening claims, and recite additional features which further distinguish them from the cited reference. Therefore, the rejection of dependent Claims 2-6, 8-15, 18-24, 25-29 and 31-33 is improper. Applicant accordingly requests that the §102(e) rejection be withdrawn.

With particular respect to several of the dependent claims, Applicant maintains that the Examiner has not shown, or even asserted, that Lavian teaches or suggests several of the claimed limitations. For example, with respect to Claim 3, the relied-upon portion of Lavian as teaching that downloading is automatic makes no reference to downloading "after detecting the accessory" as the portion at column 3, lines 17-30 does not even discuss the asserted accessory. The cited portions also do not discuss the converted object-oriented application (asserted as corresponding to the claimed proxy application), and the converted object-oriented application is obtained from a separate proxy device by target device 112 and not downloaded from an accessory, as claimed.

For another example, the portions of Lavian relied upon for the rejection of Claim 28 do not address the network device 102, (the asserted accessory), nor do they identify any cover, as claimed. In paragraph (d) of the Response to Arguments the direction to "see the rejection above" fails to respond to the arguments against the rejection of Claim 28 as the previous rejection was merely repeated without any further explanation. As pointed out previously, the various devices listed that may connect to the target device 112 are not disclosed as executing any accessory software application or being provided any services offered by target device 112 via a proxy application. Lavian has not been shown to

correspond to at least these dependent claims; therefore, the §102(e) rejection of at least these claims is improper. Applicant accordingly requests that the rejection be withdrawn.

With respect to the §103(a) rejections, Applicant respectfully traverses because the further asserted modification of Lavian and the reliance on U.S. Publication No. 2004/0152457 by Goldstein *et al.* (hereinafter “Goldstein”) do not overcome the above-discussed deficiencies in the teachings of Lavian. As discussed above, Lavian fails to correspond to the limitations of independent Claims 1, 17 and 26 (from which Claims 7, 13, 16, 25, and 30 depend). It has not been shown that Goldstein or the asserted modification of Lavian would correspond to the limitations absent in Lavian. Thus, the asserted modification of Lavian and the asserted combination of the teachings of Lavian and Goldstein do not teach each of the claimed limitations of dependent Claims 7, 13, 16, 25, and 30, and the rejection should be withdrawn.

With particular respect to the rejection of dependent Claims 16 and 25, the assertion that a skilled artisan would modify the teachings of Lavian to reduce the cost of implementing a RTOS in another invention is illogical. Any modification to the teachings of Lavian would not affect another system, only Lavian’s. The rejection of these claims is illogical and incorrect. Moreover, consistent with the prohibition of using hindsight reasoning, any motivation for modifying the teachings of Lavian must be objective and not come from Applicant’s application. Applicant accordingly requests that the rejection be withdrawn.

Moreover, the requisite evidence of motivation to modify Lavian as asserted has not been presented, nor does such motivation exist based on the cited reference. In the Office Action, the Examiner asserts that “One would have been motivated to implement a ‘Symbian’ software platform on a wireless communication system” as rationale for modifying the teachings of Lavian to include a Symbian software platform. However, Lavian is not directed to a wireless communication system and does not use the term “wireless” in the patent document. The Examiner also acknowledges this at pages 10-11 of the Office Action. No evidence has been presented that a skilled artisan would modify the

admittedly non-wireless network management system of Lavian to include wireless functionalities.

With respect to the §112, second paragraph, rejection of Claim 13, Applicant traverses because the claimed subject matter is not indefinite. Claim 13 is directed to a non-Java application and non-Java application interface. As these terms do not require Java software or programming language (or versions thereof), the claim language is not indefinite. Applicant accordingly requests that the §112 rejection of dependent Claim 13 be withdrawn.

Applicant further traverses the §112, second paragraph, rejection of Claims 9, 10, 12, 16, 21 and 24. The rationale that these claims are indefinite because they include a trademark such as Java or Symbian is incorrect. When the identity of a product referred to by a trademark is clear, the use of the trademark is permitted. MPEP §608.01(v). A skilled artisan would readily understand the meaning of the terms “Java application”, “non-Java application”, “Java Virtual Machine”, “Symbian operating system”, and “Symbian application”. Moreover, as the claimed invention is applicable to any version of Java and Symbian and is not limited to specific versions, the failure to specifically list existing versions should not render the claims indefinite. Thus, the use of the trademarks “Java” and “Symbian” in the instant claims is appropriate and does not render the claims indefinite. Applicant accordingly requests that the rejection be withdrawn.

With particular respect to dependent Claims 9, 10 and 24, the claims have been amended to remove the term “Java” such that the claims are now directed to a “virtual machine”. As the Specification mentions Java as an example software platform and the discussions in paragraphs [0012], [0013], [0016] and [0049] indicate that the invention is directed to a wide variety of accessories and different application interfaces, the claimed virtual machine is not necessarily a Java virtual machine. These claims are also believed to be patentable over the asserted references for the reasons set forth above.

It should also be noted that Applicant does not acquiesce to the Examiner’s statements or conclusions concerning what would have been obvious to one of ordinary skill in the art, obvious design choices, common knowledge at the time of Applicant’s

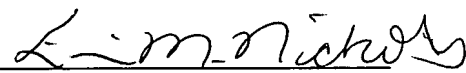
invention, officially noticed facts, and the like. Applicant reserves the right to address in detail the Examiner's characterizations, conclusions, and rejections in future prosecution.

Authorization is given to charge Deposit Account No. 50-3581 (NKO.017.US) any necessary fees for this filing. If the Examiner believes it necessary or helpful, the undersigned attorney of record invites the Examiner to contact the undersigned attorney to discuss any issues related to this case.

Respectfully submitted,

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